IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 892 of 2005

WITH

CIVIL APPLICATION NO.1049 of 2005

Smt.Kamal Farokh Messman & Anr. .. Appellants

versus

The Municipal Corporation of

Gr.Bombay .. Respondents

...

Ms.Preeti Shah for the appellant.

Mrs.Geeta Joglekar for the respondents

CORAM : B.H. MARLAPALLE,J

DATED : 16th September 2005

P.C.:

1. Heard the learned counsel for the appellant plaintiffs who are aggrieved by the ad-interim order dated 13th September 2005 refusing to grant protection to the notice/structure. Notice of Motion no.3292 of 2005 filed in L.C. Suit no.3593 of 2005 has been made returnable and the protection was

granted on 10th September 2005. This appeal has been filed for continuing the protection of the notice/structure till the Notice of Motion is decided.

2. The notice has been issued u/s.55 of the Maharashtra Regional and Town Planning Act 1966 pointing out that the unauthorised covering of rear open space admeasuring 5 meters x 4.30 meters x 3.2.5 meters covered with G.I. sheet at M/s.Theobrama Shop No.24, Cusrow Baug, SBS road, Colaba is required to be removed. Admittedly, the said covering is made sometimes in 1967 as per the contentions of the plaintiffs concerns which is after the datum line. The plaintiffs apprehend that the Officers of the Respondent Corporation made also demolish/damage the walls around the compound and on which the notice unauthorised covering is standing.

3. It is hereby directed that in case the Officer of the Corporation proceed to remove the unauthorised covering, they shall not touch or cause damage to the compound walls and in case, they apprehend that such damage is likely to be caused, they will ask the plaintiffs to remove the said covering within a given period for about one or two

weeks.

4. Appeal disposed of in terms of the above directions. Civil Application does not survive.

B.H. MARLAPALLE, J